2: Hudson E-4, 5 (1936) 1938 RQ2 Kazak RQ2

695 [692] Kazak common law[33] describe it after it had been considerably codified and systematized by Russian administrators.[34] A system of "people's courts," presided over by three judges elected subject to government approval was instigated, trial procedure formalized, and appellate courts established. According to my informants, whose ideas though somewhat vague agreed on the main point, the court of the bij had formerly been rather loosely organized. As mentioned above there was no fixed succession to the office of bij; a particular case might be referred to any outstanding individual who would render a decision according to his lights or interests.

Trial procedure consisted of hearing the evidence under oath of direct witnesses, if any, to the acts under consideration and of specially selected "character witnesses," relatives of the two parties. The "character witnesses" were not directly concerned in the case under consideration but were chosen from among the more distant relatives of the litigants and had to be acceptable to the opposing side.[35] The judge for his efforts in the [693] case was rewarded with presents from both parties if the affair could be settled to their mutual satisfaction,[36] but according to my informants he would frequently weigh his decision in favor of the individual from whom the largest present might be expected.

Concerning the cultural attitudes toward various offenses and specific methods of punishment or amounts of compensation there is great discrepancy and contradiction not only between the accounts of different writers but frequently within the pages of one report. The details of indemnification in particular cases are not of immediate concern but the question of the ultimate source of compulsion for enforcing them is of importance.

696 The bij's court had no direct executive or police powers. My informants were unable to say what would happen if a man refused to pay a judgment rendered against himself. Kargabaiev said, "It would never happen." I was not able to continue this line of inquiry but, although public opinion was clearly the final and only real source of coercion, yet it appears, as mentioned in connection with baranta, that the creditor might be permitted and perhaps expected to take matters into his own hands by attempting to collect the obligation by force. Grodekov[37] also gives indication that it might be possible for an individual incorrigibly lacking in social cooperation to be expelled from his uru.

689 626 Expulsion was also apparently the punishment for grave offenses against society as a whole, as for example serious breaches of the exogamic rule for which it was impossible to atone by compensation. Such cases, according to the informants, were very rare but used occasionally to happen when a man and girl who were close relatives fell in love with one another. It would be necessary for them to "go to another aul, or to the mountains, or to the city."

[33] See: Iraizov, *Obychnoe Pravo*; Ibragimov, *Zametki o Kirgizskom Sude*; Samokvasov, *Sbornik Obychnago Prava*, 200–43; Koslow, *Das Gewohnheits Recht*; Petri, *Über die Rechtsbegriffe*; Grodekov, *Kirgizy i Karakirgizy*; Dingelstedt, *Le Droit coutumier*.

[34] The most complete account in English of the old Kazak customary law, largely translated from the Russian edition of Levshin, has been recently published by Riazanovskii (*Customary Law of the Kirghiz*).

[35] Dingelstedt, *Le Droit coutumier*, 323–26; Levshin, *Description des hordes*, 400.

[36] Dingelstedt, *op. cit.*, 330.

[37] *Kirgizy i Karakirgizy*, 246–48.

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii [illegible] Kurama uyezd
Repetition of the same misdemeanor.	Corporal punishment and shaming.		Reprimand of the bii.	Forfeiture of trust, denouncement as a mutakhan (shameless one) and banishment.
Noise and disturbance of nocturnal peace.	Rebuke or corporeal punishment.		Not punished.	It is called tentek, dzhindy. It is not punished.
False alarm, crying attan (to horse!).	Compensation for damages incurred.		Compensation for damages incurred.	Called maskharabaz. Scolded but not punished.
The same, if a woman miscarries a child from fright. /148/	From 3 to 4 camels to one-half wergeld.		Not punished. But if woman is influential 100 rubles fine.	The payment of the appropriate wergeld.
Fast riding in village, around village, or approaching tent at a gallop.	Rebuke.		Not punished.	A scolding. The offender is called akhmak.

(Table continues).

4:Grodekov--126 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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4:Grodekov--127 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Digging holes without warning signs, or destroying these.	Rebuke and medical treatment of those hurt.		Not punished.	Warning that if someone is hurt, the digger will pay.
Slander, false denunciation. (šukhanchilik	Forfeiture of trust (zhenimsizdik). sizdik).	Not punished.	Not punished.	Formerly a whipping, (durra). Now a 3 ruble fine. ruble fine.
Not giving help when seeing theft or brigandage.	Reprimand		Not punished.	Not punished.
Not reporting the commission of a crime.		Not punished.		

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Not giving help in danger, as a result of which a person dies.		Not punished	Not punished.	They suspect murder and impose an oath.
Not helping one's own in a time of general uproar or /149/ harming one's own.	2 or 3 nines.			He is considered a traitor (ala); In time of upheaval he is killed /149/ (chaub kitedi).
Malicious luring into danger, resulting in death, e.g., from beasts.		Can demand a partial wergeld.		Full wergeld.

(Table continues).

4:Grodekov--128 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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4:Grodekov--129 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
Not giving kunakasy.		Not punished.	Not punished.	In case of death, wergeld is paid for a person, and the value for a horse.
Affront and insult of kinsmen.	Corporeal punishment, depending on the desire of the kinsman.	Affronts and light blows administered to kinsmen, and strangers, even tiuri, is not punished.		They are pacified and warned against repetition.
False witness.	Forfeiture of trust and the remuneration for damages.	Not punished.	Not punished.	A fine of 3 rubles.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
False oath.	Punishment in future life and remuneration of damages.	Not punished.	Not punished.	Punishment in future life. Same report from Kazalinsk uyezd. Bii Sultan, of the Chimkent uyezd reports that the guilty party answers in /150/ the future life. He is called muttekh. They spit on him at the end of the oath ritual. His words are no longer believed (suzi bi igtibar) and he is not chosen to be one of the oath takers.
Cheating and deceit of any kind.		In the opinion of Kunakbai and many others, it is not punished. They only repay damages.		

(Table continues).

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4:Grodekov--130 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Contributing to suicide.		Not punished. But can demand partial wergeld.	Not punished.	Full wergeld.

If a violation of the rules of morality is punished, it is punished primarily by domestic measures, as is evident from the following list.

Misdemeanors	Punishments and fines imposed for them		
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umur-bek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Torgai Dauletkulov.
Lewd behavior	Rebuke of aksakal, admonition (taufik) and forced repentance (tauba).		

(Table continues).

4:Grodekov--135 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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can be subject to the examination of a justice of the peace of a regional court only at the desire of both sides, which is announced to the court in writing or orally, and entered in the document.

Cases begun in the people's court cannot be taken out of its jurisdiction even though the suit was reconveyed to a person who was not under the jurisdiction of the given court.

A case which is subject to the jurisdiction of a people's court, of which the essence is the determination even of one instance of this court, cannot be transferred to a justice of the peace or to a regional court, except in cases when the people's court makes a sentence to a punishment which is outside the limit of its authorities.

Sentences and judgments of the people's court which are decreed in excess of power, or in cases which are not under their jurisdiction, are not carried into execution, and the uyezd chief represents the procurator for them. The latter enters a protest in the regional court, which, in case the sentence is overruled, returns the case with the necessary indications to the people's court for the establishment of a new judgment, or if the case is not under the jurisdiction of the people's court, it gives it legal direction.

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If the sides are not pacified, in cases of crimes and misdemeanors, the people's court, independent of the determination of payments 689 for losses and damage, imposes on the guilty parties the following punishments: a) fines in money no higher than 300 rubles, and b) confinement under guard for no more than one year and six months.

If as a consequence of the incorrigibly bad and pernicious behavior of the person under sentence, the people's court considers the punishment which it has a right to impose inadequate, then having determined it within the limits of its authority, it can intercede through the regional government to send the person under sentence from his place of habitation, after his punishment is finished.

A monetary fine designated by a people's court as a personal 681 punishment is, in the case of insolvency of the person under sentence, substituted for by arrest of no more than three months, or by his being given over, by /204/ command of the uyezd chief to public labor for this same period of time.

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People's courts are desginated, by election of the population, for three years.

The number of people's courts and the limits of their sectors are determined by the regional authorities before the elections, so that the number of courts among the nomads in the volost may be no less than four and no more than the number of village communities

681 In the Kazalinsk uyezd, the shaming in addition to this consists of the person who has suffered telling publicly of the crime of the guilty party.

Among the Kirgiz, the guilty person is led three times around the village, with an old felt on his neck, and he is beaten and forced to say: "I committed such and such an act (men falan ish kyldym), and this is the punishment for it (dzhazal)". After this they place him in a pit to rot (churib ulib kitedi). This punishment was practised under the Kokand serkers for: 1) robbery, discovered at the moment of [683] commission, even though done for the first time; 2) adultery with [684] another man's wife, under the same circumstances; 3) lack of [685] decorum before superiors. For incest it was customary to stone people (tashbaran).

681 The punishment for an unrestrained passion for stealing was formerly to confiscate all the property (kanau, uruganau). The house 685 of such a thief (in the Auliye-Ata uyezd) was subjected to attack and looting (uyin chaub alyb malyn aldy), or he was given up to the Kokandians, who hung him. Now under such circumstances they establish a sentence to exile him in Siberia or to banish him (1) from

1. The ousted person, excluded from his family and clan and therefore deprived of the support and defense of his clan, is called abrek among the Cherkes. A murderer, for whom his clan did not pay the "blood price" was made abrek primarily. Among the Mongols, exiles who departed from their kinsmen's clan and confederation were called ölöt or sabsars (Adaty Kavkazskikh Gortsev, pp. 359-61).

his milieu, saying: "We have banished him from our midst, we will be ruined because of his stealing. Let no one defend him in court (ichimizden chykarduk, kyuymeymiz urlygina, dauyn ich kim sura-masun). After this the thief becomes homeless, and is not reckoned in any volost. (2)

2. Two decrees of banishment from the community are given in Supplement No. 7. 1/

681 /248/ The withdrawal of the parental blessing from children exists. This takes place in this manner: The palms of the hands are pressed together and then pulled apart from each other three times.

1/ [Not translated -- A]